



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: COUNCILMEMBER PERALEZ

**SUBJECT: STRONG MAYOR
INITIATIVE**

DATE: June 24, 2020

Approved by:

Date: 6/24/2020

RECOMMENDATION

Convene a Charter Revision Commission to inclusively and publicly consider any charter changes including recommendations put forward by Mayor Liccardo, Vice Mayor Jones and Councilmember Jimenez for future consideration.

DISCUSSION

The community-led Fair Elections Initiative intended to increase voter participation by aligning the Mayor's electoral year to a presidential year and give constituents an equal voice in government by limiting campaign contributions from special interests¹. This initiative received endorsements from regional leaders, including myself and my colleagues Councilmembers Carrasco, Esparza, Jimenez, and Arenas. However, despite widespread community outreach and receiving over 66,776 valid signatures, we have recently learned that the initiative fell short of making it to the November Ballot by merely 2,248 signatures.

While there is broad support for moving the Mayor's race to a presidential year, the next ballot where this would take effect would be in 2024, thus creating no urgency to act now. Additionally, there has not been the same support or depth of engagement for extending the authority of the Mayor or extending our current Mayor's term.² I remain

¹ <https://www.sanjosefairelections.com/about>

² <https://sanjosespotlight.com/san-jose-measure-to-shift-mayoral-elections-wont-extend-liccardos-term/>

supportive of the community-led initiative to move the Mayor's race to a presidential cycle for a more inclusive and robust voter turn out. However, I am not supportive of last minute attempts to place extensive and expensive measures on a ballot without community input or the traditional Charter Revision Commission process.

Mayor Liccardo states in his memo that he supports a "two-step approach" with first making "modest but long overdue changes — the low hanging fruit—" and then followed up by "a more thorough process, undertaken and guided by a community-led Charter Revision Commission." Although the Mayor fails to spell out in his memo what exactly those modest changes should be, two follow up memos from Vice Mayor Jones and Councilmember Jimenez spell out exactly what those changes should be and highlight how extremely complicated and robust they actually are, as pointed out below:

- A. Section 300 of the City Charter is amended to define the government form as "Mayor Council."
- B. The Mayor shall have the authority to appoint, direct and dismiss the City Manager.
- C. The City Manager shall continue to appoint, direct and dismiss department heads, with a majority of Council approval required for appointment.
- D. D. The Mayor shall have the power to direct (amending Charter Section 411):
 1. The City Manager;
 2. all Department heads (a power also shared with the City Manager);
 3. any member of the Mayoral office staff; but,
 4. not any other city employee, nor any other Council appointee (City Attorney, City Auditor or Independent Police Auditor).
- E. Both the Mayor and the City Manager have the authority to dismiss department heads.
 1. If a department head is dismissed by the Mayor or City Manager, the Mayor or City Manager will promptly notify the Council, and the dismissal will be agendaized at the next Council meeting at least 72 hours following such notification. If a 2/3s supermajority of the Council votes to overturn that dismissal, the department head will be reinstated.
 2. The changes in the Charter giving the Mayor the authority to dismiss the City Manager and department heads shall not take effect until July 1, 2023.

- F. The Office of the City Clerk shall become a department appointed by the City Manager, directed and subject to dismissal by the Mayor and City Manager.
- G. Consistent with the current provisions in the Charter, the Mayor shall have the authority to propose, and the Mayor and Council shall, through a vote of the majority, have the authority to appoint, direct, and dismiss:
 - 1. The City Attorney;
 - 2. The City Auditor; and,
 - 3. The Independent Police Auditor.
- H. Executive staff for the City Manager, such as Deputy City Manager, Assistant City Manager(s), Chief of Staff and other positions directly supporting the City Manager shall continue to be appointed, directed and dismissed by the City Manager.
- I. Nothing in these reforms alters Charter Section 502(g), in which the Mayor shall continue to have the authority to direct the Public Information Office of the City, which is distinct from regular communications staff and functions that are associated with the mayoral office.
- J. Nothing in these reforms alters Charter Section 400, in which the determination of all matters of policy is vested with the Council.³

Springing these significant changes upon the Council and expecting support for a ballot measure is surprising enough, but springing this on our community is insulting and demonstrates a lack of consideration for true community engagement. The Mayor suggests that recent community feedback is justification for him suggesting these changes, but we haven't heard anyone demanding our Mayor should have all these added powers or an additional two years in office. None of these recommendations require the immediate actions suggested, therefore, there should be no obligation to simply skip over a true community process before going to the ballot. Henceforth Council should reject acting hastily and require a true community involved and transparent process by referring this to a Charter Revision Commission, rather than after council approval as the Mayor suggests.

The Charter Revision Commission has been in place since 1915, when the recommendation was to change from a Mayor-Council to Council-City Manager form of government, which was subsequently approved by voters. Numerous charter changes were incorporated similarly through use of a Charter Revision Commission in 1962 and 1965. In 1976-1977 the Charter Revision Commission recommended Council elections by district, voters approved that in 1978. In 1985 the Charter Revision Commission considered a "Strong Mayor" form of government but settled for our current structure

³ [Councilmember Jones's Memo dated 6/23/2020](#) and [Councilmember Jimenez's memo dated 6/23/2020](#)

which was placed on the ballot and approved in 1986. All of these charter changes allowed for robust community engagement and most occurred a year before they were placed on a ballot. The recommended changes we have before us today are excluding our public or at best giving them a few weeks to engage during a pandemic with all meetings being conducted virtually. Additionally, like Mayor Liccardo's two step suggestion, Vice Mayor Jones's and Councilmember Jimenez's memo considers a Blue Ribbon Commission, but only after approval of these significant charter changes. This is **not** the level of transparency or engagement that our community deserves.

Similar to the Charter Revision Commission, the City of San Jose has a Board of Fair Campaign and Political Practices⁴. This board makes recommendations to the City Council on regulations and policies, including campaign contributions. Recommendations put forward by this board go to Council for consideration and adoption. With widespread support of limiting campaign contributions from special interest groups, Council could enact these suggestions on any given Tuesday, and later solidify them in a charter amendment. Additionally our City Attorney's Office does not recommend adding campaign contributions to the City Charter because any future amendments would have to also be brought to a ballot.

Lastly, it is no surprise that we are in a fiscal crisis and placing an initiative on the November 2020 ballot could cost up to nearly \$1.7 million all while facing roughly a \$100 million deficit over these next two years. We would be making a decision to expense that without any true urgency and without any traditional polling, outreach or community engagement.

The unnecessarily rushed nature of this proposal significantly stifles community voices and eliminates equitable participation. Therefore, I urge my colleagues to do the right thing and reject placing anything on the November 2020 ballot and instead demand the proper community input before moving forward with any charter amendments.

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<https://www.sanjoseca.gov/your-government/departments/city-clerk/boards-commissions/boards-commissions-a-c/board-of-fair-campaign-political-practices>